

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

---

**COLLEEN J.,**

**Plaintiff,**

**vs.**

**5:23-CV-965  
(MAD/DJS)**

**LELAND DUDEK, *Acting Commissioner of  
Social Security,***

**Defendant.**

---

**APPEARANCES:**

**OF COUNSEL:**

**HILLER COMERFORD INJURY &  
DISABILITY LAW**

**JUSTIN M. GOLDSTEIN, ESQ.**

6000 North Bailey Avenue – Suite 1a  
Amherst, New York 14226  
Attorneys for Plaintiff

**SOCIAL SECURITY ADMINISTRATION**

**FERGUS J. KAISER, ESQ.**

Office of Program Litigation, Office 2  
6401 Security Boulevard  
Baltimore, Maryland 21235  
Attorneys for Defendant

**Mae A. D'Agostino, U.S. District Judge:**

**ORDER**

Plaintiff commenced this action on August 9, 2023, pursuant to 42 U.S.C. § 405(g), seeking review of a decision of the Commissioner of Social Security that Plaintiff was not disabled. *See* Dkt. No. 1. In a January 23, 2025 Report-Recommendation and Order, Magistrate Judge Stewart recommended that the Court grant Plaintiff's motion for judgment on the pleadings and remand this matter for further proceedings. *See* Dkt. No. 19. Specifically, Magistrate Judge Stewart found that the ALJ erred by failing to properly evaluate the medical opinions in the record. *See id.* at 6-11. Neither party objected to Magistrate Judge Stewart's recommendation.

When a party declines to file an objection, the court reviews a recommendation for clear error. *See McAllan v. Von Essen*, 517 F. Supp. 2d 672, 679 (S.D.N.Y. 2007). After the appropriate review, "the court may accept, reject or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). "When performing such a 'clear error' review, 'the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" *Canady v. Comm'r of Soc. Sec.*, No. 1:17-CV-0367, 2017 WL 5484663, \*1 n.1 (N.D.N.Y. Nov. 14, 2017) (citing Fed. R. Civ. P. 72(b), Advisory Committee Notes: 1983 Addition; *Batista v. Walker*, No. 94-CV-2826, 1995 WL 453299, \*1 (S.D.N.Y. July 31, 1995)).

Having reviewed the Report-Recommendation and Order, the Court discerns no clear error in Magistrate Judge Stewart's determination that the Court should reverse the Commissioner's decision and remand for further proceedings. Remand is warranted because the ALJ found several medical opinions to be less persuasive but failed to support those determinations with citations to record evidence or any explanation for those determinations. *See* Dkt. No. 19 at 8-11. Moreover, Magistrate Judge Stewart correctly determined that, while the ALJ found the opinions of several consulting and consultative examiners to be "generally persuasive," she failed to provide sufficient analysis of those determinations to support the required consistency and supportability factors, as required. *See Elizabeth P. v. Comm'r of Soc. Sec.*, No. 3:20-cv-891, 2022 WL 507367, \*6 (N.D.N.Y. Feb. 18, 2022) (quoting 20 C.F.R. § 404.1520c(b)(2)).

Accordingly, the Court hereby

**ORDERS** that Magistrate Judge Stewart's Report-Recommendation and Order is **ADOPTED in its entirety** for the reasons set forth therein; and the Court further

**ORDERS** that Plaintiff's motion for judgment on the pleadings (Dkt. No. 15) is **GRANTED**; and the Court further

**ORDERS** that Defendant's motion for judgment on the pleadings (Dkt. No. 17) is **DENIED**; and the Court further

**ORDERS** that Defendant's decision denying Plaintiff disability benefits is **REMANDED** pursuant to sentence four for further proceedings; and the Court further

**ORDERS** that the Clerk of the Court shall enter judgment in Plaintiff's favor and close this case; and the Court further

**ORDERS** that the Clerk of the Court shall serve a copy of this Order on the parties in accordance with the Local Rules.

**IT IS SO ORDERED.**

Dated: March 25, 2025  
Albany, New York

  
Mae A. D'Agostino  
U.S. District Judge